IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 203 of 1983

Date of decision:29-8-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether their Lordships wish to see the fair copy of the judgment?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India,1950 or any order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

HINDUSTAN SALTS LTD

Versus

KHARAGHODA GRAM PANCHYAT

Appearance:

MR GN DESAI for Petitioner

Ms Mamta Vyas for Respondent No. 1

Mr. Mukesh Patel for Respondent No. 4

None present for Respondent No. 5, 6

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/08/96

ORAL JUDGEMENT

The petitioner is a Government Company wholly owned by the Government of India, having its registered office at Jaipur, Rajasthan. Challenge is made in this petition to the notice annexure-C dated 18-12-1982 and notice annexure-D dated 7-1-1983. The facts of the case briefly stated are as follows:

Lands at Kharaghoda Salt Works covering an area of about 23,592 acres are owned by the Government of India. No deed or instrument has been executed by the Government of India in favour of the petitioner Company for transfering the aforesaid land to the petitioner. It is the case of the petitioner Company that consequent to the formation of the Hindustan Salts Limited, the said lands were given to the Company with effect from 1-1-1959 for being used for the purposes of manufacturing salt as well as for other purposes, but no document was executed in its favour. However, the petitioner submitted that the Union Government continued to be the owner of the said lands. After the formation of the petitioner Company in 1959 Kharaghoda was part of the then State of Bombay and no non-agricultural assessment was levied by the State of Bombay. After the formation of the State of Gujarat the State of Gujarat levied nonagricultural assessment on the said land and correspondence ensued between the Government of India and the Government of Guajrat and under final order dated 19th November, 1962 Government of Gujarat, Revenue and Agriculture Department directed that pending finalisation of uniform policy regarding levy of royalty, nonagricultural assessment and ground rent in respect of lands unutilised for salt manufacture, provisional assessment to levy nonagricultural assessment at the rate of Rs.2 per acre for the area under manufacture of salt by the petitioner Company and royalty at the rate of Re.1 per ton of salt produced and only agricultural assessment for the rest of the area kept open and not utilised for salt manufacture be made. The petitioner Company stated that even the said provisional levy was not legal,but there is no dispute that the petitioner Company started to pay levy of nonagricultural assessment, royalty and agricultural assessment as per letter of the Government of Gujarat dated 19th November, 1962.

3. Under Resolution dated 30th March,1970 the Government of Gujarat passed order that the rent of Government land leased for manufacture of salt for a fixed period would be increased yearly from Rs.2/- to Rs.3/- per acre. The said order is produced by the petitioner at annexure-B. The petitioner challenged in this petition the said order dated 30th March,1970 on the ground that the aforesaid order is not applicable to the land of the petitioner which belongs to Central Government. Other objections have also been raised. The Taluka Development Officer, respondent No.3 herein, under his notice dated 18-12-1982 directed the petitioner to deposit as arrears of assessment total amount of

Rs.5,51,239.94 ps. as also an amount of Re.1 towards notice fee. This notice has also been challenged by the petitioner inthis petition. This demand of the amount is made on the basis of the order annexure-B. Reply was filed by the petitioner to the aforesaid notice. But the grievance of the petitioner is that instead of deciding the same the second respondent issued notice purporting to be under section 200 of the Bomaby Land Revenue Code dated 7th January, 1983. Under this notice the petitioner was called upon to make payment of the aforesaid amount on or before 22nd January, 1983 failing which the immovable property of the Company will be attached. This notice is also challenged by the petitioner in this special civil application.

4. Sarpanch of Kharaghoda Gram Panchayat filed special civil application No.3290 of 1982 before this court in which prayer was made for issuance of writ of mandamus directing that the directions contained in letter of the Section Officer of the Revenue Department, dated 19-10-1981 be quashed and set aside. Declaration was also sought that the petitioner in the said petition i.e. the Gram Panchayat, was entitled to effect recovery of assessment as also local fund cess under the provisions of the Gujarat Education Cess Act and section 181 of the Gujarat Panchayats Act,1961. That petition is said to be pending before this Court.

5. In this writ petition this court has issued notice to the respondents and ad-interim relief in terms of para 22(D) was also granted. On 31st March, 1983 this writ petition was admitted and interim relief was ordered to continue, which continued till this date. Para 22(D) of the petition reads as under:

> "22(D). That pending admission, hearing and final disposal of this petition, respondents No.1, 2 and 3 be restrained by an order or injunction issued by this Hon'ble Court from acting and/or implementing Notice Annexure E and/or proceeding further with recovery of the amount of Rs.5,51,239.94 ps. or any other amount and/or attaching any movable property belonging to the petitioner Company."

Learned counsel for the petitioner raised manifold contentions challenging the validity of the orders annexure C, D and E. But I do not consider it be proper at this stage to go to adjudicate on merits of the contentions. The reason is very obvious. The petitioner is Government of India undertaking. The demand in annexures C, D and E has been made by none other than the

State of Gujarat. This is a litigation between the State Government on the one hand and a company which is a Government of India Undertaking. In the case of O.N.G.C. Vs. Collector of Central Excise, reported in JT 1995(4) SC 158 the apex court held that litigation between the State and Union Government or other corporations owned by the Government should not directly come to the Court. These matters are to be decided by the officers of the parties sitting across the table.Such litigation should be scrutinised by a high level committee and only on their clearance the parties may approach this court for redressal of their grievances against the Government. Earlier in special civil application No. 3767 of 1996 decided on 28-5-1996 this Court has directed that the State Government should also have a high level committee on the line as suggested by the Supreme Court in the case of ONGC vs. Collector of Central Excise (supra). The Supreme Court has decided the matter with reference to the dispute between the Central Government and other undertakings of Central Government. But the State Government should also constitute such high level committee so that dispute of the nature of the present one should not come before this court directly. This court feels that these are matters to be decided between the parties. The parties are not private persons,but are Government of India Undertaking and the State Government. It is a matter of levy of some nonagricultural assessment or royalty on the land which, as per the case of the petitioner, is owned by the Government of India, but as per the respondent the land is of the Company. But the fact is that the Company is a Government of India Undertaking. Leaving apart the question whether levy of non-agricultural assessment, royalty, agricultural assessment etc., may be there or not on the land in question, the basic question is whether the petitioner was justified in approaching this Court in the matter, instead of sitting together with the State Government to decide the issue. The matter does not end here. Recovery of the demand made by the respondent Government has also been stayed by this court in this petition. For the last 13 years the State Government has also not taken steps to sit together with the petitioner and resolve the issue. The petitioner could have approached this court after it failed to resolve the grievance with the State Government through a high level committee,and not otherwise.

6. Interest of justice will be served in case this writ petition is disposed of with direction to the petitioner and the respondents No.1,4,5 and 6 to sit together and decide the controversy. In case it could

not be resolved by the officers of the parties, it is expected of respondents No.4,5 and 6 to constitute a high level committee to go into the grievance of the petitioner. The petitioner shall be entitled to approach this court in case of difficulty, on clearance being given by such high level committee to approach this court and not otherwise. It is expected of respondent No.4 to comply with the direction given by this court in special civil application No.3767 of 1996 if it has not been so far complied with.

7. The counsel for the petitioner contended that in case this special civil application is disposed of in the aforesaid terms, the concerned respondents may proceed to recover the amount demanded under notice annexure-C. This apprehension has no substance, because in view of the direction given by this court, unless the grievance made by the petitioner is resolved, it is not expected of respondent No.4 and its officers to insist on recovery of that amount. Rule made absolute in the aforesaid terms. No order as to costs.

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